

### REMARKS

The applicant respectfully requests reconsideration of the application in view of the following remarks.

#### **I. Compliance with 35 U.S.C. § 112, Second Paragraph**

In the Office Action dated July 9, 2003, the Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner objects to the language “at least one of a transmitter and a receiver” and asserts that “the controller and the client module would need both, rather than one of these components to function as described in the specification.” The applicant traverses this rejection.

In some implementations, it is possible for the controller to be connected to a server module that comprises a receiver but not a transmitter and for the client module to comprise a transmitter but not a receiver. For example, as described in the specification at page 13, lines 1-4, a client RF module 220b is connected to a tank gauge monitor controller 230 for providing refueling tank level information to the in-store controller 205 from the on-site refueling tanks. In such an implementation, it may not be necessary for the in-store controller 205 to send information to the tank gauge monitor controller 230. Instead, it may only be necessary for the tank gauge monitor controller 230 to send information to the in-store controller 205. Accordingly, the client RF module 220b may include a transmitter but not a receiver and the in-store controller 205 may include a receiver but not a transmitter.

Some embodiments may also include a controller connected to a server module that comprises a receiver but not a transmitter and a client module that comprises a transmitter but not a receiver. For example, as described in the specification at page 13, lines 13-16, a client RF module 220e may be connected to a price board controller 245 for updating price information on a price board display from the in-store controller 205. In such an embodiment, it may be sufficient for information to be transmitted from the in-store controller 205 to the price board controller 245 (via the server RF module 210 and the client RF module 220e) without requiring a communication in the opposite direction. Of course, it is possible for some implementations to include both a transmitter and receiver at both the controller/server module side and the service device/client module side. As demonstrated above, however, such a construction is not required. Accordingly, the applicant respectfully requests that the 35 U.S.C. § 112, second paragraph, rejection of claim 1 be withdrawn.

Next, the Examiner rejected claims 2 and 3 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner objected to the language "wherein the step of processing." Claims 2 and 3 have been amended to clarify that the limitations relate to a system rather than to a method. Accordingly, the applicant requests that the 35 U.S.C. § 112, second paragraph, rejection of claims 2 and 3 be withdrawn.

In connection with the rejection of claims 2 and 3, the Examiner also indicated that the phrase "for processing" in line 3 of claim 1 does not hold patentable weight. The applicant submits, however, that this language does not merely indicate an intended use but serves as a

limitation of the claim. To clarify this point, the applicant has amended the claims to replace the “for processing” language with the phrase “adapted to process.” Other claim language, such as “for communicating” and “for connecting” have been similarly replaced with “adapted to communicate” and “adapted to connect” respectively. This language clearly defines a necessary functional capability of the in-store controller, which impacts the structure of the controller (e.g., by requiring specific programming of the controller). *See MPEP § 2173.05(g)* (stating that functional limitations that define a particular capability of an element are generally proper).

## **II. Lack of Anticipation by the Finley et al. Reference**

In the Office Action, claims 1-5, 7, 9-15, 17-22, 24-29, 31, 33-35, 37-42, 44, and 47-48 were rejected under 35 U.S.C. § 102(e) as being anticipated by Finley et al., U.S. Patent No. 6,442,448. Among other things, the Office Action asserts that the Finley et al. reference discloses “a server module (see col. 3, lines 15-20), connected to the in-store controller, comprising at least one of a transmitter and a receiver (note, for example, the use of a satellite dish and modem in figure 14);” “at least one client module (1402-1405, for example) comprising at least one of a transmitter and a receiver (838 and 839);” and “a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module (note again, for example, the satellite dish and modem of figure 14).” Contrary to the assertions in the Office Action, however, the Finley et al. reference does not disclose or suggest all of the claimed limitations.

Claim 1 recites “a server module, connected to the in-store controller, comprising at least one of a transmitter and a receiver;” “at least one client module comprising at least one of a transmitter and a receiver;” “at least one service device, connected to the at least one client module, for processing the at least one message,” and “a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module.”

According to the Office Action, the dispenser control boards (DCs) 1402-1405 described in the Finley et al. reference correspond to the claimed “at least one client module” and the Pay-At-Pump Communication Interface 839 and Fuel Communication Interface 838 represent at least one of a transmitter and a receiver. The reference describes the Pay-At-Pump Communication Interface 839 and the Fuel Communication Interface 838 as dispenser control applications that are responsible for linking the activities and events indicated by the peripherals (such as a touch pin, cash acceptor, fuel control module, printer, and magnetic strip reader) with the point of sale (POS) system (see col. 14, line 51, to col. 15, line 7). Nothing in the reference teaches or suggests that the Pay-At-Pump Communication Interface 839 or the Fuel Communication Interface 838 represent or include a transmitter or a receiver. Accordingly, the reference fails to teach or suggest at least one client module comprising at least one of a transmitter and a receiver.

Furthermore, the Finley et al. reference fails to teach or suggest the claimed limitation of “a wireless communication link for communicating between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least

one client module.” According to the Office Action, the claimed wireless communication link is disclosed in the reference by “the satellite dish and modem of figure 14”. However, the reference fails to disclose or suggest any wireless communication link between a transmitter or receiver in the dispenser control boards (DCs), which represent client modules according to the Office Action, and a server module (or any other element). There is simply no disclosure or suggestion that the dispenser control boards are involved in any wireless communication.

Instead, Figure 14 of the Finley et al. reference illustrates an Internet, Extranet, or VPN connection between a Distribution Management System (DMS) Enabled Site and a DMS Host Server (see col. 24, lines 19-28). As depicted in Figure 14, the DMS Enabled Site includes both the Site Manager, which the Examiner equates to the claimed in-store controller and/or server module, and the Dispenser Controller (DC), which the Examiner equates to the claimed client module. As a result, to the extent the Finley et al. reference discloses or suggests the possibility of a wireless communication link, such a link is not used for communicating messages between a server module and a client module, as required by the claims. Therefore, the Finley et al. reference fails to teach or suggest the subject matter of claim 1, and independent claim 1 and its dependent claims 2-13 are allowable over the cited art.

Claim 14 recites “a server module, connected to the IPT [(indoor payment terminal)], comprising at least one of a transmitter and a receiver;” “at least one client module comprising at least one of a transmitter and a receiver;” and “a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module.” As

discussed above in connection with claim 1, the Finley et al. reference fails to teach or suggest a client module comprising a transmitter and/or a receiver. In addition, the reference fails to teach or suggest a wireless communication link for communicating a message between a transmitter and/or a receiver in a server module and a transmitter and/or a receiver in a client module. Furthermore, the reference fails to teach or suggest such a server module that is connected to an indoor payment terminal and that has a wireless communication link with a client module. Thus, the Finley et al. reference fails to teach or suggest the claim limitations of claim 14, and independent claim 14 and its dependent claims 15 and 16 are allowable over the cited art.

Claim 17 recites “a server module, connected to the POS [(point of sale)] network controller, comprising at least one of a transmitter and a receiver;” “at least one client module comprising at least one of a transmitter and a receiver;” and “a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module.” As discussed above in connection with claim 1, the Finley et al. reference fails to teach or suggest a client module comprising a transmitter and/or a receiver. In addition, the reference fails to teach or suggest a wireless communication link for communicating a message between a transmitter and/or a receiver in a server module and a transmitter and/or a receiver in a client module. Furthermore, the reference fails to teach or suggest such a server module that is connected to a point of sale network controller and that has a wireless communication link with a client module. Thus, the Finley et al. reference fails to teach or suggest the claim limitations of

claim 17, and independent claim 17 and its dependent claims 18-32 are allowable over the cited art.

Claim 33 recites “a server module, connected to the dispenser controller device, comprising at least one of a transmitter and a receiver;” “at least one client module comprising at least one of a transmitter and a receiver;” and “a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module.” As discussed above in connection with claim 1, the Finley et al. reference fails to teach or suggest a client module comprising a transmitter and/or a receiver. In addition, the reference fails to teach or suggest a wireless communication link for communicating a message between a transmitter and/or a receiver in a server module and a transmitter and/or a receiver in a client module. Furthermore, the reference fails to teach or suggest such a server module that is connected to a dispenser controller device and that has a wireless communication link with a client module. Thus, the Finley et al. reference fails to teach or suggest the claim limitations of claim 33, and independent claim 33 and its dependent claims 34-46 are allowable over the cited art.

Claim 47 recites a method for wireless communication within a retail refueling environment. The claimed method, as amended, includes “transmitting the at least one message over a wireless communication link within the retail refueling environment” and “receiving the at least one message via the wireless communication link within the retail refueling environment.” The Finley et al. reference fails to teach or suggest a method that includes such

steps. Accordingly, independent claim 47 and its dependent claims 48-56 are allowable over the cited art.

In addition to the deficiencies discussed above in connection with the independent claims, the Finley et al. reference also fails to disclose or suggest limitations from the dependent claims. For example, the Office Action states that the reference discloses a serial interface for connecting the in-store controller to the server module as recited in claims 4, 20, and 34. The Office Action refers to a service serial port 402 in support of this alleged teaching. The service serial port 402, however, is described as being used to connect a service technician's laptop for diagnostics and setup, which is entirely unrelated to connecting an in-store controller to a server module, as recited in claim 4, connecting a POS network controller to the server module, as recited in claim 20, or connecting a dispenser controller device to the server module, as recited in claim 34.

### **III. Lack of Obviousness over Finley et al. in View of Dickson**

In the Office Action, claims 6, 8, 16, 23, 30, 32, 36, 43, 45, 46, and 49-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Finley et al. in view of Dickson, U.S. Patent No. 6,574,603. All of these claims are dependent claims and thus are allowable for the same reasons as discussed above in connection with the respective independent claims from which they depend. The Dickson reference also fails to cure the deficiencies of the Finley et al. reference. For example, the Dickson reference fails to disclose "a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least

one client module," as required by each of the independent system claims. Moreover, although the Office Action generally asserts that it would have been obvious to combine the Finley et al. and Dickson references to provide a secure and efficient means of interface with customers, such an asserted motivation fails to provide the necessary suggestion to combine the specific teachings of the references to arrive at the precise limitations of the claims.

For example, with respect to claim 8, neither of the references provide any suggestion to communicate a message comprising fuel tank level information between a transmitter and/or receiver in a server module connected to an in-store controller and a transmitter and/or receiver in a client module connected to a service device. The Dickson reference merely discloses generally providing vehicle fuel tank information from a vehicle to a fuel dispenser or fuel station store. With respect to claims 6, 16, 23, and 36, neither reference suggests using a spread spectrum communication link to communicate a message between a server module and a client module, as claimed. With respect to claims 30 and 32, neither reference suggests using a radio frequency identification system (RFID) controller connected to a server module that communicates via a wireless communication link with a client module. With respect to claims 43 and 46, neither reference suggests a wireless communication link adapted to communicate between a transmitter and/or receiver in a server module connected to a dispenser controller device and a transmitter and/or receiver in a client module connected to a dispenser peripheral. Accordingly, the applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

Applicant : David Kenneth Blanchard  
Serial No. : 09/911,570  
Filed : July 23, 2001  
Page : 23 of 23

Attorney's Docket No.: 15828-058001

In view of the foregoing amendments and remarks, the Applicants submit that the application is in condition for allowance and respectfully requests a Notice to that effect.

No fee is believed to be due. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,



Spencer C. Patterson  
Reg. No. 43,849

Date: 9/16/03  
Fish & Richardson P.C.  
5000 Bank One Center  
1717 Main Street  
Dallas, Texas 75201  
Telephone: (214) 292-4082  
Facsimile: (214) 747-2091